



AMOUNTS TO BE WITHHELD WHEN A NON-RESIDENT SELLS IMMOVABLE PROPERTY IN SOUTH AFRICA(SA)

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1 SUMMARY

- a) The withholding tax on amounts paid by the Purchaser to Non-Resident sellers of Immovable Property situated within South Africa, as prescribed in Section 35A of the Income Tax Act came into effect from 1 September 2007.
- b) Any person (Purchaser) who is required to pay any amount to a Non-Resident (Seller), or to any other person on behalf of the Seller, in respect of the disposal of Immovable Property in the Republic, must withhold from the amount payable an amount equal to:
 - i) 7,5% of the amount payable, if the seller is a natural person;
 - ii) 10% of the amount payable, if the seller is a company; and
 - iii) 15% of the amount payable, if the seller is a trust.
- c) **Note:** Where the value of the property exceeds R2 million, the withholding amount applies to the full purchase price, without regard to the R2 million threshold.
- d) The Seller may apply to the Commissioner, in a format and at the location determined by the Commissioner, for a directive that no amount be reduced or withheld by the purchaser, based solely on:
 - i) Any security furnished for the payment of any tax due on the disposal of the Immovable Property by the seller.
 - ii) Whether the Seller is subject to tax in respect of the disposal of the Immovable Property; and
 - iii) Whether the actual liability of the seller in respect of tax at the time of the disposal of the immovable property is less than the amount arrived at by applying the percentages of 7, 5%, 10% or 15% as the case may be, stipulated above.
- e) The amount withheld from any payment to the Seller is an advance payment in respect of the seller's liability for normal tax for the year of assessment during which the property is disposed of by the seller.
- f) If the Seller does not submit a return in respect of that year of assessment within 12 months after the end of that year of assessment, the payment of the amount under subsection (4) is a sufficient basis for an assessment in terms of section 95 of the Tax Administration Act.
- g) Section 35A of the Income Tax Act does not apply to the following:
 - i) If the amounts payable by the Purchaser to the seller and any other person for or on behalf of the Seller, in respect of the acquisition by that purchaser of the Immovable Property, in aggregate do not exceed R2 million, or
 - ii) In respect of any deposit paid by the Purchaser for the purpose of securing the disposal of the property by the Seller to that purchaser until the agreement for that disposal becomes unconditional, in which case any amount which would have been required to be withheld from the amount of the deposit must be withheld from the first following payments made by the purchaser in respect of that disposal.

2 APPLICATION OF TAX DIRECTIVE FOR WITHHOLDING AND RETURN SUBMISSION

- a) The Seller, Purchaser, Conveyancer, or Estate agent can download the application and return by logging onto the SARS website at www.sars.gov.za.
 - i) On SARS Home Page, select Types of Tax;
 - ii) Select Capital Gains Tax;
 - iii) Under the Forms tab, select NR03 (Tax Directive Application by Non-Resident Seller of Immovable Property in SA); or

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- iv) Select NR02 (Declaration by Purchaser for Sale of Immovable Property in SA by Non - Resident).
- b) The Seller/Purchaser/Conveyancer/Estate agent must -
 - i) Click on the form;
 - ii) Print the form; and
 - iii) Manually complete the relevant information required.
- c) The Seller/Purchaser/Conveyancer/Estate agent or Representative must complete the mandatory information and submit the application for a Tax Directive (NR03) or the Return(NR02) and the Deed of sale via email.
 - i) Email: nres@sars.gov.za.
- d) The details of the Taxpayer Engagement Unit to which the applications must be forwarded, are as follows:

Postal address	Physical Address	Other channel Address
Randburg Private Bag X15, Alberton, 1450	Randburg Branch Office 25 Hill Street Ferndale	Email address: nres@sars.gov.za

- e) **Note 1:** The Seller or Representative is required to request, complete and submit the Tax Directive application by Non-Resident of Immovable Property in SA (NR03) and the Purchaser/Conveyancer/Estate agent must complete and submit the declaration By Purchaser of sale of Immovable Property in SA by Non-Resident (NR02).
- f) **Note 2:** When applying for the Transfer Duty receipt, the conveyancer must select YES at the question 'Are the provisions of Section 35A of the Income Tax Act 1962 applicable?' This is found in the Details of Property container. The NR02 or NR03 must be uploaded along with the Deed of Sale.
- g) The processing time for the Tax Directive application (NR02)/Return (NR03) is 21 business days.
- h) When an amount is withheld from a Non-Resident Seller of Immovable Property, it is expected that the Non-Resident should submit a return. If a year passes without submitting a return SARS may regard the amount received/payment as a sufficient basis to raise an assessment.

3 COMPLETION OF APPLICATION NR03

- a) Completion of application Tax Directive form (NR03)

3.1 Particulars of Seller

- b) Complete the following fields for Particulars of Seller
 - i) First two names;
 - ii) Initials;
 - iii) Surname/Registered Name;
 - iv) Trading Name;
 - v) Income Tax Ref. No;
 - vi) ID No;
 - vii) Passport No;
 - viii) Passport Country (e.g. South Africa = ZAF);
 - ix) Passport issue date (CCYYMMDD);
 - x) Company/CC Reg.No,
 - xi) If you are non-resident, state country of residence.

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Application for Tax Directive by non-resident seller of
immovable property in South Africa – Capital Gains Tax

NR03

Particulars of Seller

First two names																					Initials		
Surname / Registered name																					Date of Birth (CCYYMMDD)		
Trading name																					Tax ref no.		
ID No.						Passport No.						Passport Country (e.g. South Africa = ZAF)			Passport issue date (CCYYMMDD)								
Company / CC Reg. No.						If you are a non-resident, state country of residence																	

3.2 Physical Address

- a) This is the physical address of the business, i.e. the premises the business is trading from.
- If the business is trading from a flat or townhouse, the actual flat or townhouse unit number must be inserted in "unit no";
 - The name of the block or the block of flats or townhouse complex must be inserted in "complex", and
 - Where the business does not trade from a flat, townhouse or complex these fields are left blank;
 - Street No;
 - Street/Name of farm;
 - Suburb/District;
 - City/Town; and
 - Postal code.

Physical Address

Unit No.					Complex (if applicable)																
Street No.					Street / Farm Name																
Suburb / District																					
City / Town																					
Country code (e.g. South Africa = ZA)			Postal Code																		

3.3 Postal Address

- a) This is the address that the business would like its post to be sent to. It may be the same as the business address above or it may be a post box number or other address. If it is the same as the business address simply, mark the relevant box with an "X".
- b) If the answer is "No", the following fields will be displayed as open and editable:
- Postal Agency or Other Sub-unit (if applicable) (e.g. POSTNET Suite ID);
 - PO Box: Indicate on the applicable tick box if the postal address is 'P.O. Box' or 'Private Bag'.
 - Private Bag: Indicate on the applicable tick box if the postal address is 'P.O. Box' or 'Private Bag';
 - Other PO Special Service (specify);
 - Number;
 - Post Office;
 - Postal Code;
 - Registered Postal Address indicator.

Postal Address

Mark here with an "X" if same as above or complete your Postal Address	<input type="checkbox"/>																				
Country code (e.g. South Africa = ZA)			Postal Code																		

3.4 Particulars of Property

- a) Complete the following fields
- Date of transaction (CCYYMMDD);
 - Reason for directive;
 - Reason for application: Section 35A(2)(a), Section 35A(2)(b), Section 35A(2)(d);
 - Description of property as per Title Deed.

Particulars of Property	
Date of transaction (CCYYMMDD)	Gross selling price R
Reason for Directive	
Reason for application	Section 35A(2)(a) <input type="checkbox"/> Section 35A(2)(b) <input type="checkbox"/> Section 35A(2)(c) <input type="checkbox"/> Section 35A(2)(d) <input type="checkbox"/>
Description of property as per Title Deed	

3.5 Particulars of Purchaser

- a) Complete the following fields for Particulars of Purchaser

- First two names;
- Initials;
- Surname/Registered Name;
- Trading Name;
- Income Tax Ref. No;
- ID No;
- Passport No;
- Passport Country (e.g. South Africa = ZAF);
- Passport issue date (CCYYMMDD);
- Company/CC Reg.NO;
- If you are non- resident, state country of residence.

Particulars of Purchaser	
First two names	Initials
Surname / Registered name	Date of Birth (CCYYMMDD)
Trading name	Tax ref no.
ID No.	Passport No.
Company / CC Reg. No.	Passport Country (e.g. South Africa = ZAF)
If you are a non - resident, state country of residence	

3.6 Physical Address

- a) This is the physical address of the business, i.e. the premises the business is trading from.
- If the business is trading from a flat or townhouse, the actual flat or townhouse unit number must be inserted in "unit no";
 - The name of the block or the block of flats or townhouse complex must be inserted in "complex", and
 - Where the business does not trade from a flat, townhouse or complex these fields are left blank;
 - Street no;
 - Street/Name of farm;
 - Suburb/District;
 - City/Town; and
 - Postal code.

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Physical Address	
Unit No.	<div> <div></div> <div></div> <div></div> <div></div> </div> <div>Complex (if applicable)</div> <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>
Street No.	<div> <div></div> <div></div> <div></div> <div></div> </div> <div>Street / Farm Name</div> <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>
Suburb / District	<div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>
City / Town	<div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>
Country code (e.g. South Africa = ZA)	<div> <div></div> <div></div> </div> <div>Postal Code</div> <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>

3.7 Postal Address

- a) This is the address that the business would like its post to be sent to. It may be the same as the business address above or it may be a post box number or other address. If it is the same as the business address simply, mark the relevant box with an "X".
- b) If the answer is "No", the following fields will be displayed as open and editable:
- Postal Agency or Other Sub-unit (if applicable) (e.g. POSTNET Suite ID);
 - PO Box: Indicate on the applicable tick box if the postal address is 'P.O. Box' or 'Private Bag';
 - Private Bag: Indicate on the applicable tick box if the postal address is 'P.O. Box' or 'Private Bag';
 - Other PO Special Service (specify);
 - Number;
 - Post Office;
 - Postal Code;
 - Registered Postal Address indicator.

Postal Address	
Mark here with an "X" if same as above or complete your Postal Address	<div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>
	<div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>
	<div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>
Country code (e.g. South Africa = ZA)	<div> <div></div> <div></div> </div> <div>Postal Code</div> <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div>

3.8 Calculation of amount to be withheld

- a) Complete the following fields
- Gross selling price (only if gross selling price exceeds R2 million);
 - Percentage on gross selling price (Individuals - 7, 5%; Companies - 10%; Trusts - 15%).

Calculation of Amount to be Withheld	
Gross selling price (only if gross selling price exceeds R2m)	<div> <div>R</div> <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div>,</div> <div> <div></div> <div></div> </div> </div>
Percentage on gross selling price (Individuals - 7.5% Companies - 10%; Trusts - 15%)	<div> <div>R</div> <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div>,</div> <div> <div></div> <div></div> </div> </div>
Total payable	<div> <div>R</div> <div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> <div></div> </div> <div>,</div> <div> <div></div> <div></div> </div> </div>

3.9 Declaration

- a) After all the information fields have been completed, the applicant is required to complete, print, and sign the declaration on the first page of the application form. Failure to do so will result in the application being rejected.

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Declaration by Seller

I declare that the information furnished in this return is true and correct in every respect.

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Please ensure you sign over the 2 lines of 'X's above

Date (CCYYMMDD)

--	--	--	--	--	--	--	--

For enquiries go to
www.sars.gov.za or call
0800 00 SARS (7277)

4 TAX DIRECTIVE APPROVAL OR REJECTION


- a) If the Seller is not registered for Income Tax, SARS will register the Seller, for the purposes of the withholding tax.
- b) Once the Seller has been registered for Income Tax, SARS will approve/decline the application according to the requirements as stipulated in Section 35A.
- c) A letter, Tax Directive (NR03) and third Provisional Payment advice (IRP6) will be issued to the Purchaser/Conveyancer/Estate agent informing him/her of the status of the directive application and the amount payable.

5 COMPLETION AND SUBMISSION OF THE RETURN (NR02)

- a) Completion of the Return (NR02)

5.1 Particulars of Seller

- b) Complete the following fields
 - i) First two names;
 - ii) Initials;
 - iii) Surname/Registered Name;
 - iv) Trading Name;
 - v) Income Tax Ref. No;
 - vi) ID No;
 - vii) Passport No;
 - viii) Passport Country (e.g. South Africa = ZAF);
 - ix) Passport issue date (CCYYMMDD);
 - x) Company/CC Reg.NO,
 - xi) If you are non- resident, state country of residence.



Return Information by Purchaser for the Sale of Immovable Property in South Africa by a Non – Resident.

NR02

Particulars of Seller

First two names	<table border="1" style="width: 100%; height: 20px;"></table>		Initials	<table border="1" style="width: 100%; height: 20px;"></table>
Surname / Registered name	<table border="1" style="width: 100%; height: 20px;"></table>		Date of Birth (CCYYMMDD)	<table border="1" style="width: 100%; height: 20px;"></table>
Trading name	<table border="1" style="width: 100%; height: 20px;"></table>		Tax ref no.	<table border="1" style="width: 100%; height: 20px;"></table>
ID No.	<table border="1" style="width: 100%; height: 20px;"></table>	Passport No.	<table border="1" style="width: 100%; height: 20px;"></table>	Passport Country (e.g. South Africa = ZAF)
Company / CC Reg. No.	<table border="1" style="width: 100%; height: 20px;"></table>	If you are a non – resident, state country of residence <table border="1" style="width: 100%; height: 20px;"></table>		

5.2 Physical Address

- a) This is the physical address of the business, i.e. the premises the business is trading from.
- If the business is trading from a flat or townhouse, the actual flat or townhouse unit number must be inserted in "unit no";
 - The name of the block or the block of flats or townhouse complex must be inserted in "complex", and
 - Where the business does not trade from a flat, townhouse or complex these fields are left blank;
 - Street no;
 - Street/Name of farm;
 - Suburb/District;
 - City/Town; and
 - Postal code.

Physical Address	
Unit No.	<input type="text"/>
Complex (if applicable)	<input type="text"/>
Street No.	<input type="text"/>
Street / Farm Name	<input type="text"/>
Suburb / District	<input type="text"/>
City / Town	<input type="text"/>
Country code (e.g. South Africa = ZA)	<input type="text"/>
Postal Code	<input type="text"/>

5.3 Postal Address

- a) This is the preferred postal address of the business. It may be the same as the business address above or it may be a post box number or other address. If it is the same as the business address simply, mark the relevant box with an "X".
- b) If the answer is "No", the following fields will be displayed as open and editable:
- Postal Agency or Other Sub-unit (if applicable) (e.g. POSTNET Suite ID);
 - PO Box: Indicate on the applicable tick box if the postal address is 'P.O. Box' or 'Private Bag';
 - Private Bag: Indicate on the applicable tick box if the postal address is 'P.O. Box' or 'Private Bag';
 - Other PO Special Service (specify);
 - Number;
 - Post Office;
 - Postal Code;
 - Registered Postal Address indicator.

Postal Address	
Mark here with an "X" if same as above or complete your Postal Address	<input type="checkbox"/>
	<input type="text"/>
	<input type="text"/>
	<input type="text"/>
Country code (e.g. South Africa = ZA)	<input type="text"/>
Postal Code	<input type="text"/>

5.4 Description of property (as per title deed)

- a) Complete the following fields
- Description of property as per Title Deed.

Description of Property (as per Title Deed)
<input type="text"/>
<input type="text"/>
<input type="text"/>

5.5 Name of Public Officer/Trustee

a) Complete the following fields

- i) Surname;
- ii) Initials;
- iii) Date of Birth(CCYYMMDD);
- iv) ID No;
- v) Passport No;
- vi) Passport Country (e.g. South Africa = ZAF);
- vii) Income Tax Ref. No;
- viii) Passport issue date (CCYYMMDD);

Name of Public Officer / Trustee													
First two names									Initials				
Surname / Registered name									Date of Birth (CCYYMMDD)				
Trading name									Tax ref no.				
ID No.				Passport No.				Passport Country (e.g. South Africa = ZAF)			Passport issue date (CCYYMMDD)		
Company / CC Reg. No.				If you are a non - resident, state country of residence									

5.6 Particulars of Purchaser/Conveyancer/Estate Agent

a) Complete the following fields

- i) First two names;
- ii) Initials;
- iii) Surname/Registered Name;
- iv) Trading Name;
- v) Income Tax Ref. No;
- vi) ID No;
- vii) Passport No;
- viii) Passport Country (e.g. South Africa = ZAF);
- ix) Passport issue date (CCYYMMDD);
- x) Company/CC Reg.NO;
- xi) If you are non- resident, state country of residence.

Particulars of Purchaser / Conveyancer / Estate Agent													
First two names									Initials				
Surname / Registered name									Date of Birth (CCYYMMDD)				
Trading name									Tax ref no.				
ID No.				Passport No.				Passport Country (e.g. South Africa = ZAF)			Passport issue date (CCYYMMDD)		
Company / CC Reg. No.				If you are a non - resident, state country of residence									

5.7 Physical Address

- a) This is the physical address of the business, i.e. the premises the business is trading from.
- i) If the business is trading from a flat or townhouse, the actual flat or townhouse unit number must be inserted in "unit no";
 - ii) The name of the block or the block of flats or townhouse complex must be inserted in "complex", and
 - iii) Where the business does not trade from a flat, townhouse or complex these fields are left blank;
 - iv) Street no;
 - v) Street/Name of farm;
 - vi) Suburb/District;
 - vii) City/Town; and
 - viii) Postal code.

Physical Address

Unit No.	<input type="text"/>	Complex (if applicable)	<input type="text"/>
Street No.	<input type="text"/>	Street / Farm Name	<input type="text"/>
Suburb / District	<input type="text"/>		
City / Town	<input type="text"/>		
Country code (e.g. South Africa = ZA)	<input type="text"/>	Postal Code	<input type="text"/>

5.8 Postal Address

- a) This is the address that the business would like its post to be sent to. It may be the same as the business address above or it may be a post box number or other address. If it is the same as the business address simply, mark the relevant box with an "X".
- b) If the answer is "No", the following fields will be displayed as open and editable:
- Postal Agency or Other Sub-unit (if applicable) (e.g. POSTNET Suite ID);
 - PO Box: Indicate on the applicable tick box if the postal address is 'P.O. Box' or 'Private Bag';
 - Private Bag: Indicate on the applicable tick box if the postal address is 'P.O. Box' or 'Private Bag';
 - Other PO Special Service (specify);
 - Number;
 - Post Office;
 - Postal Code;
 - Registered Postal Address indicator.

Postal Address

Mark here with an "X" if same as above or complete your Postal Address	<input type="checkbox"/>	<input type="text"/>
		<input type="text"/>
		<input type="text"/>
Country code (e.g. South Africa = ZA)	<input type="text"/>	Postal Code
		<input type="text"/>

5.9 Name of Public Officer/Trustee

- a) Complete the following fields
- Surname;
 - Initials;
 - Date of Birth(CCYYMMDD);
 - ID No;
 - Passport No;
 - Passport Country (e.g. South Africa = ZAF);
 - Income Tax Ref. No;
 - Passport issue date (CCYYMMDD);

Name of Public Officer / Trustee

Surname	<input type="text"/>	Initials	<input type="text"/>
Date of Birth (CCYYMMDD)	<input type="text"/>	ID No.	<input type="text"/>
Income tax ref no.	<input type="text"/>	Passport No.	<input type="text"/>
		Passport issue date (CCYYMMDD)	<input type="text"/>
		Passport Country (e.g. South Africa = ZAF)	<input type="text"/>

5.10 Name of Conveyancer/Estate Agent

- a) Complete the following fields
- Surname;
 - Initials;
 - Date of Birth(CCYYMMDD);

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- iv) ID No;
- v) Passport No;
- vi) Passport Country (e.g. South Africa = ZAF);
- vii) Income Tax Ref. No;
- viii) Passport issue date (CCYYMMDD);

Name of Conveyancer / Estate Agent																				
Surname																Initials				
Date of Birth (CCYYMMDD)						ID No.						Passport No.						Passport Country (e.g. South Africa = ZAF)		
Income tax ref. no.											Passport issue date (CCYYMMDD)									

5.11 Name of Conveyancer Firm/Estate Agency

a) Complete the following fields

- i) Surname;
- ii) Initials;
- iii) Date of Birth(CCYYMMDD);
- iv) ID No;
- v) Passport No;
- vi) Passport Country (e.g. South Africa = ZAF);
- vii) Income Tax Ref. No;
- viii) Passport issue date (CCYYMMDD);

Particulars of Purchaser / Conveyancer / Estate Agent (Continued)																				
Name of Conveyancer firm / Estate Agency																				
Surname																Initials				
Date of Birth (CCYYMMDD)						ID No.						Passport No.						Passport Country (e.g. South Africa = ZAF)		
Income tax ref. no.											Passport issue date (CCYYMMDD)									

5.12 Calculation of amount to be withheld

a) Complete the following fields

- i) Year of Assessment;
- ii) Date(CCYYMMDD);
- iii) Receipt number;
- iv) Gross selling price(only if gross selling price exceeds R2 million);
- v) Percentage on gross selling price (Individuals – 7, 5%; Companies - 10%; Trusts - 15%).
- vi) Interest (from :14 days after payment to seller - To : Date of payment of amount withheld to SARS);
- vii) Penalty (10%);
- viii) Total payable;

Calculation of Amount to be Withheld																					
Year of Assessment						Gross selling price (only if gross selling price exceeds R2m)	R						x								
Date (CCYYMMDD)						Percentage on gross selling price (Individuals – 7.5%; Companies – 10%; Trusts – 15%)	R						x								
Receipt number						Interest (From: 14 days after payment to seller; To: Date of payment of amount withheld to SARS)	R						x								
						Penalty (10%)		%							Total payable	R					

5.13 Notes

a) These are the notes in terms of Section 35A.

Notes

1. Section 35A of the Income Tax Act, 1962 stipulates that non-residents are now subject to capital gains tax in respect of the sales of the non-residents immovable property located in South Africa where the disposal date is on or after 1 September 2007.
2. This date refers to the date on which the agreement is concluded.
3. If there are conditions in the agreement (such as, the sale is subject to the purchaser obtaining financing from a bank), the time of disposal is when the condition is fulfilled.
4. A non-resident may dispose of immovable property before 1 September 2007 but only receive payment after that date. In that case there should be no amount withheld from the payment to the non-resident seller.
5. Any person (resident or non-resident) purchasing property situated in South Africa that exceeds R2million from a non-resident must withhold an amount from the amount payable to the non-resident.
6. The seller may apply to Commissioner in prescribed form for nil or reduced rate of withholding amount. The Commissioner may only consider the directive if one of the following factors exist:
 - Security furnished.
 - Other assets of seller in SA.
 - Whether the seller is subject to tax on the disposal.
 - Whether actual liability is less than the prescribed withholding amount.
7. The Seller must be registered for Income Tax and Provisional Tax to apply for a Tax Directive.
8. The purchaser must withhold amount at the following rates from the amount payable to non-resident seller:
 - 7.5% Natural person
 - 10% Company
 - 15% Trust
9. Where the value of the property exceeds R2 million, the withholding amount applies to the full purchase price without regard to the R2 million limit.
10. The amount withheld is an advance payment in respect of the seller's tax liability on the sale of the property.
11. Section 35A does not apply:
 - Where the total amount payable by the purchaser to the seller does not exceed R2 million, or
 - In respect of any deposit paid to secure the disposal before the agreement is entered into. Any amount which would have been required to be withheld from the deposit must be recovered from the first following payments made by the purchaser.
12. The purchaser must submit a declaration in the prescribed form to inform SARS of the purchase of such a property.
13. The purchaser must pay the amount withheld to SARS within
 - 14 calendar days (if purchaser is a resident)
 - 28 calendar days (if purchaser is a non-resident)
14. If purchase price is in foreign currency, amount withheld must be translated into Rands at spot rate on date paid over to SARS.
15. If purchaser knows or should reasonably have known that seller was a non-resident and fails to withhold the prescribed amount, that purchaser will be held personally liable for amount not withheld, and must pay the amount to SARS within the time the amount should have been paid.
16. A purchaser who is assisted by an estate agent or conveyancer will not be held personally liable if not notified of seller's non-resident status by that estate agent / conveyancer.
17. The estate agent and the conveyancer must notify the purchaser in writing that the seller is a non-resident and that Section 35A may apply. This requirement only applies to an Agent / Conveyancer who is entitled to any remuneration in connection with the disposal.
18. An estate agent or conveyancer will be held jointly and severally liable for the amount not withheld, limited to the amount of his / her remuneration / payment where he or she knows or should reasonably have known that the seller is a non-resident, and fails to notify the purchaser.
19. A purchaser who fails to pay the withholding amount to SARS within the prescribed period is liable for:
 - Interest at the prescribed rate, calculated from the day following the last date for payment to the date the amount is received by SARS,
 - A penalty of 10%, plus
 - Any other penalties or charges under the Act.
20. An estate agent or conveyancer who paid an amount in terms of subsection (12) is deemed to be a withholding agent for purposes of the Tax Administration Act. This does not include any interest or penalty.

6 PAYMENT PROCESS

- a) If an amount has been withheld from any amount payable in a foreign currency, that amount withheld must be translated to the currency of the Republic (Rand) at the spot rate on the date the amount is paid over to SARS.
- b) The amount withheld by a purchaser must together with a return be submitted to the Commissioner:
 - i) Where that Purchaser is a resident, within 14 days after the date on which that amount was withheld; or
 - ii) Where that Purchaser is not a Resident, within 28 days after the date on which that amount was withheld.
 - iii) If a Tax Directive (NR03) was issued by SARS, the Seller/Purchaser/Conveyancer/Estate Agent will be notified of the amount payable, the Declaration by Purchaser for Sale of Immovable Property in SA by Non-Resident (NR02) must accompany the payment to SARS. For all methods of payments, refer to GEN-PAYM-01-G01 – SARS Payment Rules - External Guide.
- c) **Note:** For all other tax types, SARS offices will no longer accept any cheque or cash payments. The taxpayer is advised to make payments at the bank. Banks no longer accept cheques exceeding R500 000, based on a decision taken by the Payments Association of South Africa (PASA), which is the association responsible for managing payments within South Africa, and with the endorsement of the South African Reserve Bank (SARB).
- d) If the Seller did not request an NR03 and is registered for Income Tax, the seller will be regarded as a provisional taxpayer. The Purchaser/Conveyancer/Estate agent must submit the third period payment advice (IRP6) in the name of the seller, with the payment to SARS. (Refer to GEN-PAYM-01-G01 – SARS Payment Rules - External Guide).
- e) If a third provisional payment advice (IRP6) was not received with the original letter and Tax Directive (NR03),
 - i) the (IRP6) can be downloaded from the SARS website: www.sars.gov.za:
 - A) On SARS Home Page >Select Types of Tax;
 - B) Select Provisional Tax;
 - C) Scroll to the bottom of the screen; and
 - D) Below the Top of the Forms tab, select IRP 6 (3) Payment Advice for additional provisional tax.
- f) A payment receipt will be issued to the purchaser/conveyancer/estate agent once the payment is made to SARS.

7 COMPLETION OF PROVISIONAL TAX RETURN(IRP6)

- a) Completion of Provisional Tax Return (IRP6).

7.1 Particulars of Taxpayer (Individual)

- a) Complete the following details
 - i) Year of assessment;
 - ii) Period:
 - A) First/Second/Third;
 - iii) Taxpayer Reference Number;
 - iv) Date of birth(CCYMMDD);
 - v) Surname;
 - vi) Initials;
 - vii) Payment of options:
 - A) efilling/SARS Branch/EFT/Swift MT 103

Particulars of Taxpayer															INDTE01		
Year of assessment	<input type="text"/>	<input type="text"/>	<input type="text"/>	Period: First	<input type="text"/>	Second	<input type="text"/>	Third	<input type="text"/>	Taxpayer Reference Number	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	Date of birth (CCYYMMDD)	<input type="text"/>	<input type="text"/>
Surname	<input type="text"/>															Initials	<input type="text"/>
Payment Options	eFiling <input type="checkbox"/>	SARS branch <input type="checkbox"/>	EFT <input type="checkbox"/>	SWIFT MT 103 <input type="checkbox"/>													

7.2 Particulars of Taxpayer (Company/Trust)

- a) Complete the following details
 - i) Year of assessment;
 - ii) Period:
 - A) First/Second/Third;
 - iii) Taxpayer Reference Number;
 - iv) Registered no.;
 - v) Registered name;
 - vi) Date of birth(CCYMMDD);
 - vii) Surname;
 - viii) Initials;
 - ix) Payment of options:
 - A) efilling/SARS Branch/EFT/Swift MT 103

[illegible]

7.3 Taxpayer Estimate (Individual)

- a) Complete the following details
 - i) Taxable income for the full year;
 - ii) Tax on Taxable income(as per tax tables);
 - iii) Less:
 - A) Rebates - Primary, secondary and tertiary(for individuals)
 - B) Medical scheme fees tax credit
 - C) Additional medical expense tax credit.
 - iv) Tax for the full year: Recalculate.
 - v) Less: Employees' tax for this period(12 months);
 - vi) Less : Foreign tax credits for this period(12 months);
 - vii) Less: Provisional Tax paid for 1st and 2nd period;
 - viii) Tax payable for this period;
 - ix) Add: interest on late payment;
 - x) Total Amount payable for this period

Taxpayer Estimate									
Taxable income for the full year	R								
Tax on taxable income (as per tax tables)	R								
Less: Rebates - Primary, secondary and tertiary (for individuals only)	R								
- Medical scheme fees tax credit	R								
- Additional medical expenses tax credit	R								
Tax for the full year <input type="button" value="Recalculate"/>	R								
Less: Employees' tax for this period (12 months)	R								
Less: Foreign tax credits for this period (12 months)	R								
Less: Provisional tax paid for 1 st and 2 nd period	R								
Tax payable for this period	R								
Add: Interest on late payment	R								
Total Amount payable for this period	R								

7.4 Calculation of the tax payable for the period (Companies/Trust)

- a) Complete the following details
- Turnover;
 - Estimate Taxable income ;
 - Less:
 - Rebates - Primary, secondary and tertiary(for individuals)
 - Medical scheme fees tax credit
 - Additional medical expense tax credit.
 - Tax for the full year: Recalculate.
 - Less: employee's tax for this period(12 months);
 - Less: Foreign tax credits for this period(12 months);
 - Less: Provisional Tax paid for 1st and 2nd period;
 - Tax payable for this period;
 - Add: interest on late payment;
 - Total Amount payable for this period.

Calculation of the tax payable for this period									
Turnover	R								
Estimate Taxable income	R								
Less: Rebates - Primary, secondary and tertiary (for individuals only)	R								
- Medical scheme fees tax credit	R								
- Additional medical expenses tax credit	R								
Tax for the full year <input type="button" value="Recalculate"/>	R								
Less: Employees' tax for this period (12 months)	R								
Less: Foreign tax credits for this period (12 months)	R								
Less: Provisional tax paid for 1 st and 2 nd period	R								
Tax payable for this period	R								
Add: Interest on late payment	R								
Total Amount payable for this period	R								

7.5 Historical Information

- a) Complete the following details
- Year last assessed;
 - Taxable income for that year;
 - Basic amount.

Historical Information

Year last assessed																			
Taxable income for that year	R																		
Basic amount	R																		

7.6 Payment Detail

- a) Complete the following details
- Payment reference no(PRN);
 - Beneficiary ID/Account number.

Payment Detail

Payment ref no. (PRN)																			
Beneficiary ID / Account no.	S A R S - P R O V																		

Payment reference numbers and payment allocation:

Always quote the unique PRN when making payment. Payment allocations to provisional tax periods are based on specific allocation rules which are linked to the unique PRN used on each provisional tax period return filed. If you wish to make a payment relating to a previous period, please use the PRN specified on the previous provisional tax period return. Payments will be allocated to your account by provisional tax period in the following manner: 1st Penalties, 2nd Interest, 3rd Provisional Tax declared. Please contact SARS when you wish to re-allocate a payment to the correct period.

Please note that SARS no longer accepts cheques. Payments are to be made electronically or at approved financial institutions.

8 DECLARATION

- a) After all the information fields have been completed, the applicant is required to complete, print, and sign the declaration on the first page of the application form. Failure to do so will result in the application being rejected.

Declaration	
<p>I declare that the information furnished in this return is true and correct in every respect.</p> <p>Date (CCYYMMDD) <input type="text"/></p>	<p>XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX</p> <p>Please ensure you sign over the 2 lines of 'X's above</p> <p>For enquiries go to www.sars.gov.za or call 0800 00 SARS (7277)</p>

9 FAILURE TO PAY THE WITHHOLDING TAX ON AMOUNTS PAID BY THE PURCHASER TO NON-RESIDENT SELLERS OF IMMOVABLE PROPERTY

- A Purchaser is personally liable if he/she knows or should reasonably have known that the seller is a Non-Resident. The Purchaser must pay the amount to SARS not later than the date on which payment should have been made if the amount was in fact withheld.
- If the Estate agent or Conveyancer has assisted in the disposal of property, a Purchaser will not be held personally liable if not notified of the seller's Non-Resident status by that Estate agent or Conveyancer;
- Any Estate agent and Conveyancer entitled to any remuneration or other income in respect of services rendered in connection with the disposal of the Immovable Property by the seller or the registration of transfer must, before any payment is made to the seller, notify the purchaser in writing of the fact that

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the seller is a Non-Resident and that Section 35A may apply. This requirement applies only to an Estate agent / Conveyancer entitled to any remuneration in connection with the disposal;

- d) If an Estate agent or Conveyancer should reasonably have known that the seller is a Non-Resident and fails to notify the Purchaser, the failing Estate agent or Conveyancer is jointly and severally liable for the payment of the amount which the Purchaser is required to withhold and pay to the Commissioner, but limited to the amount of remuneration or other payment in respect of the services rendered in connection with the disposal of Immovable Property by the seller or the registration of transfer, as the case may be.
- e) A Purchaser who fails to pay the amount withheld to SARS within the period allowed for payment:
 - i) Is liable for interest at the prescribed rate on any amount outstanding calculated from the day following the last date for payment to the date that the amount is received by SARS; and
 - ii) Must pay a penalty equal to 10% of that amount, in addition to any other penalty or charges for which he or she may be liable under the Act.
- f) **Note:** No provision is made to waive interest.

10 REFERENCES

10.1 Legislation

TYPE OF REFERENCE	REFERENCE
Legislation and Rules administered by SARS:	Income Tax Act No. 58 of 1962: Sections 10(1)a, 35A and 41 – 47 Tax Administration Act No. 28 of 2011 (effective 1 October 2012)
Other Legislation:	None
International Instruments:	None

10.2 Quality Records

NUMBER	TITLE
IRP6	Provisional Tax Return
NR02	Declaration by Purchaser for the sale of Immovable Property in South Africa by a Non-Resident
NR03	Tax Directive Application form by Non - Resident Seller of Immovable Property in SA

10.3 Reference to Role, Functional Area, or Division

- a) Where an Organisational Structural change occurs with or without modifications, any reference in this document to a role, functional area or division under the former organisational structure, unless the contrary intention appears, shall be construed to be a reference to that role, functional area or division under the new Organisational Structure.

11 DEFINITIONS, ACRONYMS AND ABBREVIATIONS

- a) The definitions, acronyms and abbreviations can be accessed via the following link: [Glossary webpage](#)

DISCLAIMER

The information contained in this guide is intended as guidance only and is not considered to be a legal reference, nor is it a binding ruling. The information does not take the place of legislation and readers who are in doubt regarding any aspect of the information displayed in the guide should refer to the relevant legislation or seek a formal opinion from a suitably qualified individual.

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For more information about the contents of this publication you may:

- Visit the SARS website at www.sars.gov.za;
- Make a booking to visit the nearest SARS branch;
- Contact your own tax advisor / tax practitioner;
- If calling from within South Africa, contact the SARS Contact Centre on 0800 00 SARS (7277); or
- If calling from outside South Africa, contact the SARS Contact Centre on +27 11 602 2093 (only between 8am and 4pm South African time).